

***United States Court of Appeals  
for the  
District of Columbia Circuit***



**TRANSCRIPT OF  
RECORD**



TRANSCRIPT OF RECORD.

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Court of Appeals, District of Columbia

JANUARY TERM, 1902.

No. 1139.

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**116**

ANNA M. HEINZ, APPELLANT,

*vs.*

HENRY B. F. MACFARLAND, JOHN W. ROSS, AND JOHN  
BIDDLE, COMMISSIONERS OF THE DISTRICT OF  
COLUMBIA.

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APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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FILED NOVEMBER 9, 1901.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

JANUARY TERM, 1902.

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In the Court of Appeals of the District of Columbia.

ANNA M. HEINZ, Appellant,  
vs.  
HENRY B. F. MACFARLAND ET AL.

} No. 1139.

a Supreme Court of the District of Columbia.

In re WIDENING OF COLUMBIA ROAD AND SIXTEENTH STREET.  
No. 577, District Court.

UNITED STATES OF AMERICA, } ss :  
District of Columbia,

Be it remembered that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 Award and Assessments of Jury.

Filed September 27, 1900.

SCHEDULE No. 1.

Block.	Lot.	Square feet of area.	Award.	Owner.
Denison and Leighton's subdivision.	*	*	*	*
	96	355.6	\$127.00	Mary A. Cushing.
	Of 95	South ½ front by depth of lot.	\$146.00	Pri-cilla E. Hendley.
	Of 95	194.3	\$154.00	Carl E. Pelz.
	Of 95	North ½ front by depth of lot.		
	*	205.3		
	*	*	*	*
	*	*	*	*
	*	*	*	*
	*	*	*	*
	*	*	*	*
	*	*	*	*
	90	524.4	\$210.00	Anna M. Heinz.
	91	480.1	\$240.00	Anna M. Heinz.
	*	*	*	*

Block.	Lot.	Square feet of area.	Assess- ments.	Owners.
	*	*	*	*
	89	28,382.7	\$1,703.00	Frederick J. Loudin.
	90	18,573.6	\$1,115.00	Anna M. Heinz.
	91	13,597.0	\$816.00	Anna M. Heinz.
	130	3,813.3	\$229.00	Henry D. Williams.
	129	3,112.1	\$187.00	Florence B. Solger and Josephine Thompson.
3	128	2,411.0	\$165.00	William C. Borden.
	127	3,026.0	\$182.00	Julian C. Dowell.
	100	9,632.4	\$578.00	Ellen Henriques.
4	99	South $\frac{1}{2}$ front by depth of lot ..	\$288.00	Edward C. Barnard.
	99	North $\frac{1}{2}$ front by depth of lot ..	\$287.00	Herbert C. Blair.
	98	9,544.4	\$573.00	Mary F. Henderson.
	97	9,500.4	\$570.00	Mary A. Cushing.
	96	9,456.4	\$567.00	Mary A. Cushing. E.
	95	.....	\$283.00	Pri-cilla A. Hendley.
	95	.....	\$282.00	Carl E. Pelz.
5	Of 135	3,518.4	\$211.00	Levy Nagle.
	Of 136	3,513.2	\$211.00	John B. Roach and J. Frank Black.
	Of 137	3,554.4	\$213.00	Frances B. Dare.
	Of 138	4,225.5	\$253.00	Gertrude M. Guy.
	Of 139	4,362.3	\$262.00	Robet N. Bayles.
	Of 140	3,629.0	\$218.00	
	Of 141	5,517.4	\$331.00	Sadie Tilley.

*Exceptions.*

Filed October 29, 1900.

In the Supreme Court of the District of Columbia.

*In re* WIDENING OF COLUMBIA ROAD AND SIXTEENTH STREET.  
No. 577.

Peter J. Heinz, one of the heirs of Anna M. Heinz, deceased, and the owner of lots 90 and 91, in Denison & Leighton's subdivision, fronting on 16th street, affected by the above proceedings, by his attorney, excepts and objects to the findings, award, and assessment against said lots by the jury in this cause, and for cause or grounds of exception shows:

1. That the award of damages for the land taken from said lots is inadequate and far below the actual cost of same to the owner.

2. That the verdict is contrary to the weight of the evidence, contrary to law, and contrary to the instructions of the court, and *are* unjust, unreasonable, and excessive.

3. Because the jury acted under an erroneous and illegal principle in their finding of benefits and in the assessment of benefits against

the said lots owned by this exceptant on a wrong basis of computation.

4. Because said assessment of benefits is and should be held null and void by reason of the unconstitutionality of the act under which this proceeding was instituted.

5. That the assessment of benefits against said lots is excessive and beyond all reason; that no evidence was taken to show any resulting benefits, and in fact no benefits will result to the owner by reason of the widening of said 16th street, the width of same  
7 at the point where this exceptant's land abuts being now as wide as there is any necessity for, the owners having many years ago donated land for the widening thereof.

6. That the assessment of benefits as arrived at by the jury is arbitrary, illegal, and inequitable, in that the back ground is assessed at the same rate as frontage, no allowance being made for deep lots.

7. That the supposed benefits assessed are grossly in excess of any possible benefits that may be derived by the owner of said lots by reason of this proceeding, and is thus taking of private property for public use without just compensation.

8. For errors of law in the instructions given and refused by the court to the jury, as shown by the record in the case.

W. WALTON EDWARDS,  
*Att'y for P. J. Heinz.*

8 *Order of Severance.*

Filed August 1, 1901.

In the Supreme Court of the District of Columbia, Holding a District Court.

*In re* WIDENING OF COLUMBIA ROAD AND PRESENT SIXTEENTH STREET. No. 577.

Upon motion of Anna M. Heinz, by her attorneys, it is this first day of August, A. D. 1901, ordered that a severance be granted her, and that she be granted the privilege of prosecuting her appeal separately from the other respondents in the above-entitled cause.

By the court:

HARRY M. CLABAUGH, *Justice.*

*Memorandum.*

August 1, 1901.—\$50 deposited in lieu of appeal bond.

*Order for Appeal & Citation.*

Filed August 1, 1901.

In the Supreme Court of the District of Columbia, the 1st Day of August, 1901.

*In re* WIDENING OF COLUMBIA ROAD AND PRESENT SIXTEENTH STREET. District No. 577, Docket No. 2.

The clerk of said court will enter an appeal on behalf of Anna M. Heinz, defendant, from the decree and judgment passed in the above-entitled cause the 9th day of July, 1901, and issue citation against the Commissioners of the District of Columbia.

W. WALTON EDWARDS,  
WARDER VOORHEES,

*Att'ys for Anna M. Heinz.*

10 In the Supreme Court of the District of Columbia.

Filed Aug. 1, 1901. J. R. Young, Clerk.

*In re* WIDENING OF COLUMBIA ROAD AND SIXTEENTH STREET.  
No. 577, Dist. Court.

The President of the United States to the Commissioners of the District of Columbia, Greeting:

You are hereby cited and admonished to be and appear at a Court of Appeals of the District of Columbia, upon the docketing the cause therein under and as directed by the rules of said court, pursuant to an appeal in the supreme court of the District of Columbia on the 1st day of August, 1901, wherein Anna M. Heinz is appellant and you are appellees, to show cause, if any there be, why the decree rendered against the said appellant should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Edward F. Bingham, chief justice of the supreme court of the District of Columbia, this 1st day of August, in the year of our Lord one thousand nine hundred and one.

Seal Supreme Court  
of the District of  
Columbia.

J. R. YOUNG, *Clerk*,  
By L. P. WILLIAMS,  
*Ass't Clerk.*

Service of the above citation accepted this 1st day of August, 1901.

ARTHUR H. O'CONNOR,  
*Attorney for Appellee.*



11

*Stipulation.*

Filed November 9, 1901.

In the Supreme Court of the District of Columbia, Holding a United States District Court.

*In re* WIDENING OF COLUMBIA ROAD AND PRESENT SIXTEENTH STREET. No. 577.

It is hereby stipulated by and between the parties to the appeal of Anna M. Heinz against the decree of the court of July 9th, 1901, confirming the verdict, award, and assessment of benefits against the said Anna M. Heinz, that the following designated portions of the record shall constitute the transcript of record for the purpose of the appeal of the said Anna M. Heinz in said cause:

1. The transcript of record on the appeal of Donald McPherson in the above-entitled cause.

2. That part of the verdict of the jury showing the damages and assessments against lots ninety (90) and ninety-one (91) of Denison and Leighton's subdivision, involved in said cause, belonging to said Anna M. Heinz; lot ninety-six (96), belonging to Mary A. Cushing; of lot ninety-five (95), belonging to Pri-cilla E. Hendley, and of ninety-five (95), belonging to Carl E. Pelz, all in said subdivision, and that part of the verdict of the jury showing the assessments against lot eighty-nine (89), belonging to Frederick J. Loudin; lot one hundred and thirty (130), belonging to Henry D. Williams; lot one hundred and twenty-nine (129), belonging to Florence B. Solger and Josephine Thompson; lot one hundred and twenty-eight (128), belonging to William C. Borden; lot one hundred and twenty-seven (127), belonging to Julian C. Dowell; lot one hundred (100), belonging to Ellen Henriques; of lot ninety-nine (99), belonging to Edward C. Barnard; of lot ninety-nine (99), belonging to Herbert C. Blair; lot ninety-eight (98), belonging to Mary F. Henderson; lot ninety-seven (97), belonging to Mary A. Cushing; of lot one hundred and thirty-five (135), belonging to Levy Nagle; of lot one hundred and thirty-six (136), belonging to John B. Roach and J. Frank Black; of lot one hundred and thirty-seven (137), belonging to Frances B. Dare; of lot one hundred and thirty-eight (138), belonging to Gertrude M. Guy; of lot one hundred and thirty-nine (139), belonging to Robert N. Bayles, and of lot one hundred and forty-one (141), belonging to Sadie Tilley, all of said lots being in said subdivision.

3. Exceptions to the verdict, award, and assessment of the jury as to said lots ninety (90) and ninety-one (91) of said Denison and Leighton's subdivision by said verdict and award shown to belong to said Anna M. Heinz.

4. Appeal of said Anna M. Heinz and her order of severance, with order extending her time to November tenth, 1901, for filing transcript of record.

It is hereby further stipulated that the blue-print copies of the verdict, award, and assessments, with the map now filed with the clerk, may be considered and made a part of the record on appeal, and that the same need not be printed, but may be referred to by either party in the argument of the case in the Court of Appeals and be considered a part of the record therein.

It is further stipulated that counsel for either party, appellant or appellee, may, upon the hearing of the cause upon appeal, produce and read any other part of the record in the supreme court of the District of Columbia in the case, and may, if necessary, make the same a part of the record on appeal, although the same be not in the printed record.

A. B. DUVALL, *Att'y, D. C.*,  
By ARTHUR H. O'CONNOR,  
*Ass't Att'y.*  
ANNA M. HEINZ,  
By W. WALTON EDWARDS AND  
WARDER VOORHEES,  
*Attorneys.*

I consent.

CHAPIN BROWN,  
*Att'y for Donald McPherson.*

13 *Order Extending Time to File Transcript.*

Filed October 31st, 1901.

In the Supreme Court of the District of Columbia, Holding a United States District Court.

*In re* WIDENING OF COLUMBIA ROAD AND PRESENT SIXTEENTH STREET. No. 577.

It is hereby ordered, this 31st day of October, A. D. 1901, that the time for filing transcript of record upon the appeal of Anna M. Heinz in the above-entitled cause be, and it is hereby, extended until the tenth day of November, 1901.

A. B. HAGNER.

We consent.

A. B. DUVALL,  
By ARTHUR H. O'CONNOR,  
*Att'y for D. C.*

14 UNITED STATES OF AMERICA, } ss :  
District of Columbia,

Supreme Court of the District of Columbia.

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 13, inclusive, to be a true and correct transcript of the record, as

per stipulation of counsel herein filed, copy of which is made part of this record, in cause No. 577, district court, *In re* widening of Columbia road and Sixteenth street, as the same remains upon the files and of record in said court.

In testimony whereof I hereunto subscribe  
Seal Supreme Court my name and affix the seal of said court, at  
of the District of the city of Washington, this 9th day of No-  
Columbia. vember, A. D. 1901.

JOHN R. YOUNG, *Clerk*.

Endorsed on cover: District of Columbia supreme court. No. 1139. Anna M. Heinz, appellant, *vs.* Henry B. F. Macfarland *et al.* Court of Appeals, District of Columbia. Filed Nov. 9, 1901. Robert Willett, clerk.